

VIAC – Questionnaire for Arbitrators

1. Name: Ema Vidak Gojkovic

2. Citizenship: Croatian

3. Contact information:

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4. Current position: Independent Counsel & Arbitrator, Vidak Arbitration
Adjunct Professor, McGill University

5. Education: Harvard Law School (LL.M. with honors)
Faculty of Law of the University of Zagreb (Mag.lur. *summa cum laude*)
SCC/SAA Diploma Certificate for Foreign Arbitrators

6. Practiced experience in arbitration

- How many arbitrations have you participated in (domestic/international); under which Rules?

Over 40 international arbitrations (ICC, LCIA, SCC, AAA, ICSID, UNCITRAL, SAS HGK, HKIAC)

- How often have you acted as Chairman? -
- How often have you acted as Sole Arbitrator? **3 (ICC, LCIA)**
- How often have you acted as Co-Arbitrator? **2 (LCIA, SAS HGK)**
- How often have you acted as Counsel? **35 (ICC, LCIA, SCC, AAA, ICSID, UNCITRAL, SAS HGK, HKIAC)**
- How often have you acted in a different function (e.g. Administrative Secretary)? -

7. Publications and other activities in arbitration (e.g. training sessions, seminars, conferences, articles and others):

Selected Conference Presentations

- *Tech Disputes – Lessons Learned From The Perspective Of Counsel And Arbitrator*, Joint YCAP/SVAMC-YP Conference on Tech, Start-ups and Dispute Resolution, Virtual/Zagreb (June 2021)
- *Arguments That Matter When Asking Investment Arbitration Tribunals To Stay Criminal Proceedings*, Mute Off Thursdays – Women’s Arbitration Forum, New York (Jan. 2021)
- *The Strategic Pathway In The “New Normal” Of International Arbitration: How Arbitral Institutions Faced The Covid Era*, Arbit and Milan Chamber of Arbitration, Milan (Nov. 2020)
- *The Fragmentation Of International Law: Resolving The Conflict Between EU Law And International Investment Law*, ABILA International Law Weekend, Fordham Law School, New York (Oct. 2019)
- *Force Majeure & Hardship Clauses In Arbitration*, ICC YAF, Paris Arbitration Week (April 2019)

- *The Art Of Advocacy: Tips, Tricks And War Stories*, ICDR Y&I and WilmerHale, London (Sept. 2018)
- *Does Investment Arbitration Demand Different Rules And Principles To That Used In Commercial Arbitration*, Cambridge Arbitration Days, Cambridge (March 2018)
- *International Arbitration Of Business And Human Rights Disputes*, Vienna Arbitration Days, Vienna (Jan. 2018)
- *Arbitrator Appointments And Parties' Expectations*, NY City Bar, New York (Sept. 2017)
- *Harvard Negotiation Method & Women Leadership*, Croatian Commerce Association, Zagreb (May 2017)
- *Google Inspire: From A Bosnian Refugee To An International Arbitration Lawyer*, Keynote Talk, Google HQ, London (Jan. 2017)
- *Mandatory Rules and the Public Order – Comparison of Common Law and Civil Law Approaches*, ICAC/UNCITRAL III. International Arbitration Readings, Kiev (Nov. 2015)

Selected Publications

- *UK Supreme Court Delivers Landmark Judgment on Arbitrator Bias and Duty of Disclosure*, 14 NYSBA New York Dispute Resolution Lawyer, Issue 1 (2021)
- *The COVID-19 Revolution: The Future Of International Arbitration Is Not Over Yet* (with Michael McIlwrath) in Scherer, Bassiri and Abdel Wahab (eds), *International Arbitration And The COVID-19 Revolution*, Kluwer Law International (2021)
- *The ICC's Guidance Note On Mitigating The Impact Of COVID-19*, Practical Law Blog (Apr. 23, 2020)
- *WikiLeaks And Beyond: Discerning An International Standard For The Admissibility Of Illegally Obtained Evidence* (with Cherie Blair QC), 32 ICSID Review – Foreign Investment Law Journal, Issue 3 (2018)
- *The Medium Is The Message: Establishing A System Of Business And Human Rights Through Contract Law And Arbitration* (with Cherie Blair QC), 35 Journal of International Arbitration, Issue 4 (2018)
- *An Unlikely Tandem Of Criminal Investigations And Arbitral Proceedings: A Case Study Of The INA – MOL Oil & Gas Proceedings*, Kluwer Arbitration Blog (Jan. 26, 2017)
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- *Banking Disputes And Regulation In Croatia*, Getting the Deal Through (with Luka Rimac) (2014)
- *The Recent Amendments To The Croatian Constitution And Their Impact On The Effective Prosecution Of White Collar Crimes Committed in the Privatization Period*, The Lawyer (2010) (awarded The University Chancellor's Best Thesis Award in 2010)

Selected Training and Workshops

- Foundation for International Arbitration Advocacy (FIAA) training on Cross-Examination of Expert Witnesses, co-taught with S. Haridi, A. Santens and J. Fellas
- Strategy and Advocacy in International Arbitration, co-taught with Prof. A.K. Bjorklund, McGill University
- Mediation and ADR, coaching for the IBA-VIAC Mediation and Negotiation Competition (CDRC), co-taught with A. K. Grill at Juridicum, Vienna

8. Membership in arbitral institutions / functions in arbitral institutions/organizations:

- ICSID Panel of Arbitrators
- LCIA North American Users' Council
- Member of IBA Arbitration Committee, ASIL, YAAP, YIAG, ICC YAF, ICDR Y&I
- Founder of "Mute Off Thursdays" (international arbitration forum for women)

9. Languages

Mother tongue: **Croatian-Serbian-Bosnian-Montenegrin**

Working languages (i.e. languages in which you have both a spoken and written command so that you may conduct arbitral proceedings in this language): **English, Spanish**

10. In which legal systems have you trained?

Civil Law

Common Law (UK and US)

Austrian Law

Hungarian Law

Swiss Law

Czech Law

Polish Law

Ukrainian Law

German Law

Slovakian Law

European Law

Other **Croatian Law, Swedish Law**

11. What is your main jurisdiction of practice?

Croatia (and the former Yugoslav region in general), USA and UK

12. In which jurisdictions are you admitted to the bar?

- England and Wales
- New York
- Croatia (not an active member of the Bar)

13. Special expertise or specializations (please list a maximum of five):

- | | | | |
|--|--|---|--|
| <input type="checkbox"/> Antitrust/Unfair competition | <input type="checkbox"/> Damages | <input type="checkbox"/> Insolvency | <input type="checkbox"/> Power plants |
| <input type="checkbox"/> Aviation | <input type="checkbox"/> Distribution | <input type="checkbox"/> Insurance | <input type="checkbox"/> Private Intern. Law |
| <input type="checkbox"/> Banking & Finance | <input type="checkbox"/> Domain name disputes | <input type="checkbox"/> Intellect. property (IP) | <input type="checkbox"/> Public Intern. Law |
| <input type="checkbox"/> Capital markets | <input type="checkbox"/> Employment | <input type="checkbox"/> ISDS/ Foreign invest. | <input type="checkbox"/> Real estate |
| <input type="checkbox"/> CISG | <input type="checkbox"/> Energy | <input type="checkbox"/> Joint ventures | <input type="checkbox"/> Shipping |
| <input type="checkbox"/> Civil fraud disputes | <input type="checkbox"/> Engineering | <input type="checkbox"/> Licensing | <input type="checkbox"/> Sports |
| <input type="checkbox"/> Commercial disp. / transactions | <input type="checkbox"/> Entertainment | <input type="checkbox"/> Life sciences | <input type="checkbox"/> State/Public contracts |
| <input type="checkbox"/> Commodity market | <input type="checkbox"/> Healthcare & Pharmac. | <input type="checkbox"/> Maritime arbitration | <input type="checkbox"/> Technology |
| <input type="checkbox"/> Company/Corporate/M&A | <input type="checkbox"/> Hotel/Gastro./Tour. | <input type="checkbox"/> Media | <input type="checkbox"/> Telecommunication |
| <input type="checkbox"/> Construction | <input type="checkbox"/> Inform. technology (IT) | <input type="checkbox"/> Mining | <input type="checkbox"/> Transport |
| <input type="checkbox"/> Contract law | <input type="checkbox"/> Infrastructure | <input type="checkbox"/> Natural resources | |
| <input type="checkbox"/> Other _____ | | | |

14. Date of birth: 17 August 1986

VIAC offers arbitration practitioners the possibility to present themselves on its website. VIAC reserves the right to publish any presentations submitted and to remove it as the case may be. Parties are free to nominate an arbitrator of their choice and so is the VIAC Board when appointing an arbitrator. These presentations do not constitute recommendations but may assist the parties in choosing an arbitrator willing to conduct proceedings according to the Vienna Rules. The fact that an arbitration practitioner appears on this list, does not authorize this person to use the title "VIAC-arbitrator".

I have completed this questionnaire to the above to the best of my knowledge and believe they are accurate.

I hereby consent that the data provided in this questionnaire may be processed for the appointment of arbitrators and published by VIAC. This includes in particular publication on the website of VIAC as well as use in any presentations, etc. This consent may be withdrawn at any time by contacting VIAC at our general contacts, in particular by email addressed to office@viac.eu. The consequence of any such withdrawal will be that my data will no longer be processed by VIAC. For further information, see our privacy statement at <http://www.viac.eu>.

29 July 2022

Date

EMA VIDAK GOJKOVIĆ INDEPENDENT COUNSEL & ARBITRATOR



Ema Vidak Gojković
Independent Counsel &
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Ema Vidak Gojković is an independent counsel and arbitrator, specializing in international arbitration and public international law.

Before founding her independent practice Vidak Arbitration LLC in New York, Ema practiced in leading international law firms, including King & Spalding (London and New York), Baker McKenzie (Vienna), and Omnia Strategy under Cherie Blair CBE QC (London).

Ema is triple-qualified in New York, England & Wales, and Croatia. She holds degrees with honors from Harvard Law School and Zagreb Faculty of Law, and the SCC/SAA Diploma for Foreign Arbitrators.

She is fluent in English and Croatian-Serbian-Bosnian, and has a working knowledge of Spanish.

Throughout her career, Ema has advised and represented clients in international disputes under civil, common, and international law. She has acted in over 40 complex, high-stakes, commercial and investment arbitrations under various arbitral rules, including ICC, LCIA, SCC, AAA, HKIAC, ICSID, UNCITRAL, ECT, OIC, and SAS HGK.

Ema regularly sits as arbitrator in *ad hoc* and institutional arbitrations. She is appointed to the ICSID Panel of Arbitrators and is featured on the arbitrator lists and rosters of all major arbitral institutions, including ICC, LCIA, SCC and VIAC.

She is also an Adjunct Professor at McGill University, where she teaches a course on *Advocacy and Strategy in International Arbitration*.

Ema frequently speaks at international arbitration conferences. Recently she spoke at Harvard Law School, American Society of International Law – International Law Weekend at Fordham Law School, Cambridge Arbitration Days, Paris Arbitration Week, Vienna Arbitration Days, and Kyiv Arbitration Days.

Ema has published on international disputes topics in leading journals such as ICSID Review and Journal of Int’l Arbitration. For her article on arbitrator appointment (with M. McIlwrath and L. Greenwood), Ema was shortlisted for the GAR Best Innovation Award (2017). Ema founded *Mute Off Thursdays* – a virtual forum for senior women in arbitration – which won the GAR Pledge Award for Best Diversity Initiative of the year (2021).

Ema is recognized by Who’s Who Legal as a Future Leader – Arbitration in 2018-2022. She is described as “one of the best arbitration lawyers of her generation”; “an extremely bright and sharp mind”, “incredibly knowledgeable, experienced and innovative” and “a role model for the new generation of arbitrators and one to watch.”

Ema’s arbitrator philosophy is described here:

<https://www.vidakarbitration.com/arbitrator-philosophy>

Representative Experience

Commercial Arbitration

- Party-appointed arbitrator in an LCIA arbitration under English law concerning a steel manufacturing dispute between an Estonian claimant and a Polish respondent
- Sole arbitrator in an ICC arbitration under Austrian law concerning a metal trading dispute in Central and Eastern Europe between an Austrian claimant and a Romanian respondent (expedited rules)
- Sole arbitrator in an LCIA arbitration under English law concerning the assignment of rights and repayment of loans agreed between a UK creditor and an Ecuadorian debtor (non-participating respondent)
- Party-appointed arbitrator in a EUR 20 million shareholder dispute under Croatian law between Central European parties concerning a luxury golf resort project
- Representing a US company against their State-owned Chinese joint venture partner in a USD 1,2 billion arbitration concerning a polymetallic mining project in the Republic of Congo under HKIAC rules and English law
- Representing a US-UK mining conglomerate against Sierra Leone in a USD 1.7 billion dispute concerning expropriation of a mining license in an ICC arbitration under English law
- Represented US-UK investors against Tanzania in an ICC arbitration under English law regarding power purchase contracts, electricity transmission, and expropriation of a gas-fired power plant
- Represented a UK renewable energy company in an LCIA arbitration under English law against an East African State entity regarding an energy project of national strategic importance
- Represented a BVI entity against multiple European construction companies in an ICC arbitration under English law relating to a shareholders' agreement and privatization and operation of a port in Ghana, including settlement negotiations and mediation
- Represented a Spanish energy company in an ICC arbitration and in parallel criminal proceedings relating to investment fraud, tax evasion, and false accounting under Austrian law
- Advised a Middle Eastern investor on instituting Emergency Arbitrator proceedings under the SCC Rules for Expedited Arbitrations in relation to the cancelation of a mining license
- Represented an Italian infrastructure company against a State-owned entity in an SAS HGK arbitration under Croatian law concerning the construction of a highway tunnel in Croatia
- Represented an Indian pharmaceutical company against supply and distribution contractors in an *ad hoc* commercial arbitration under English law relating to contract performance, fraudulent transfer to a restricted person, and breaches of IP rights and trade secrets
- Represented a tech company in an *ad hoc* commercial arbitration under Croatian law relating to IP rights in program code and shareholder rights relating to a spin-off start-up organization
- Advised a Delaware company on instituting arbitration proceedings against its joint venture partner in New York under the AAA Rules and New York law
- Represented an Austrian group of companies in an *ad hoc* commercial arbitration under Austrian law concerning shareholders' profit-sharing agreement
- Represented a European car company in a shareholder dispute under German law against its Asian joint venture partner concerning R&D, market penetration and profit-sharing agreements

Investment Arbitration and Public International Law

- Represented Turkey in an ICSID arbitration brought by a UK investor claiming expropriation of media, distribution, real estate, and mining businesses valued at USD 5.5 billion, including advisory work on investment protection in the context of terrorism and national security
- Represented an African State in an UNCITRAL arbitration brought by a consortium of international energy and mining investors concerning the cancellation of a mining exploration license, including settlement discussions and mediation
- Representing a consortium of Canadian and Lebanese investors in an ICSID arbitration against Armenia concerning concession contracts for waste management in Yerevan
- Represented Montenegro in an ICSID arbitration brought by an Austrian banking and finance investor regarding foreign exchange and currency control legislation
- Represented Turkey in an ICSID arbitration brought by a Belgian investor claiming expropriation of a media business
- Representing a US-UK mining conglomerate against Sierra Leone in a USD 1.7 billion dispute concerning expropriation of a mining license in an ICSID arbitration (including temporary restraining order and provisional measure proceedings)
- Represented renewable energy investors against Italy and Spain in ICSID arbitrations under the ECT relating to tariff agreement cancellation
- Represented US-UK investors against Tanzania in an ICSID arbitration relating to power purchase agreements, electricity transmission projects, and expropriation of a natural gas-fired power plant in Tanzania
- Represented an Austrian investor against Croatia in an ICSID arbitration relating to food business real estate projects and arms trade control
- Represented a Middle Eastern investor against an Asian state in an OIC/UNCITRAL arbitration relating to expropriation of rights in steel manufacturing and mining sectors
- Advised Montenegro on early dispute resolution strategy and settlement opportunities regarding an UNCITRAL dispute brought by a consortium of UK-Cypriot foreign investors claiming expropriation of a private bank and real estate projects with the alleged value of EUR 0.5 billion
- Advised Albania in an ICSID arbitration brought by a German investor relating to privatization of a former “socially”-owned company and its license rights concerning food stamps
- Advised a Bosnian investor on BIT claims relating to expropriation of a medical facility in Croatia
- Advised a Middle Eastern banking and finance organization on its standing as a foreign investor in North America in relation to a complex set of foreign transfer banking relationships
- Advised a Southern European state on public international law aspects of a boundary dispute and the division of land and sea in the context of state succession
- Advised a Central European state on public international law aspects of embargoed arms trade
- Advised an Eastern European government on human rights issues relating to riots and freedom of speech in the context of ongoing European Court of Human Rights cases

Selected Procedural Experience

- Emergency and expedited arbitration proceedings
- Respondent non-participation
- Provisional measures (including *ex parte* requests) to prevent destruction of evidence, to protect confidentiality, to prevent witness harassment, to suspend a criminal investigation over claimant and claimant's key officers, to prohibit extradition, to limit a tax investigation, and to prevent cancellation of a mining license and its issuance to a new investor
- Security for costs and applications to disclose financial arrangements with third parties
- Applications to compel witness testimony and to allow anonymized witness testimony
- Applications to exclude evidence obtained illegally (including through privacy breaches) and falsified audio and video recordings
- Applications for imposition of a daily penalty for non-compliance with tribunal orders
- Site visits (in-person and virtual)
- Settlement, direct party negotiation and mediation

Selected Industry Experience

- **Energy, natural resources and mining:** multinational energy and local SPV companies, upstream and downstream, gold, copper, zinc, lead, and iron ore mining, oil and gas, concessions and licenses, powerplants, power purchase agreements, electricity transmission projects, liquefied natural gas (LNG), oil and gas pipelines, renewable energy, wind-powered electric generation facility (wind farm), solar plant, steel manufacturing
- **Construction:** highway, road tunnels, transportation corridors, waterways and other buried infrastructure, contamination of groundwater, port concession and operation, container terminals, manufacturing plant, subcontractor agreements, delay and defects, related geodata, cadaster and land registry conformity issues
- **Post-M&A, joint venture, commercial:** partnership agreement, joint venture agreement, share purchase agreement, hostile takeover, minority shareholder protection, cooperation and distribution agreement, working capital disputes, revenue sharing agreement, succession disputes regarding licenses and concessions, franchise agreement, trade secrets, questions of "touch and feel" conformity of products with cooperation and R&D agreements, first refusal option, asset purchase agreement, real estate and development agreement, securities, supply agreement, luxury goods and commodities, waste management
- **Hospitality:** hotels and resorts, spa and golf resorts, restaurants, food and beverages, franchise
- **Technology:** technology companies, information technology companies and start-ups, share purchase agreement involving dispute over IP rights, licensing agreement, option agreement
- **Life sciences:** Health care, pharmaceutical, biopharmaceutical and biotechnology
- **Financial services:** financial agreements, loans (including issues of consumer protection legislation), liquidation sale and settlement

- **Public international law:** represented investors and states in almost 20 investment treaty arbitration cases, including issues related to mining, energy and natural resources, preferential tariffs and tax assessments, royalty calculation and payments, licenses and concessions, media, distribution, real estate, banking and finance, foreign exchange and currency control legislation, banking, hospitality, social ownership privatization transformations, illegality and corruption, fraud, illegal arms trade and international criminal law, territorial boundary disputes, state succession, and human rights issues relating to freedom of speech, riots, protection of ownership, and prosecution and prevention of terrorism

Selected Publications

- *Temporary Restraining Orders in ICSID Practice*, ICSID Review – Foreign Investment Law Journal (upcoming in October 2022)
- *UK Supreme Court Delivers Landmark Judgment on Arbitrator Bias and Duty of Disclosure*, 14 NYSBA New York Dispute Resolution Lawyer, Issue 1 (2021)
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- *Mandatory Rules and the Public Order – Comparison of Common Law and Civil Law Approaches*, ICAC/UNCITRAL III. International Arbitration Readings, Kiev (Nov. 2015)

Professional Associations and Other Positions

- Adjunct Professor, McGill University (course: *Strategy and Advocacy in International Arbitration*)
- Faculty Member, FIAA – Foundation for International Arbitration Advocacy
- Member, American Society of International Law (ASIL), Harvard Law School Alumni Network, International Bar Association (IBA), New York State Bar Association (NYSBA), LCIA North American Users’ Council, YIAG, ICC YAF, ICDR Y&I
- Founder, Young Croatian Arbitration Practitioners (YCAP)
- Founder, Mute Off Thursdays – Virtual Forum for Women in Arbitration
- Featured on lists and roasters of all major arbitral institutions, including ICSID Panel of Arbitrators, LCIA, ICC, SCC, VIAC and BVIIAC

Accolades

“Ema is a brilliant lawyer”

– Who’s Who Legal, Arbitration Future Leaders, 2019

“She transforms complicated issues into simple and straightforward points”

– Who’s Who Legal, Arbitration Future Leaders, 2019

“Ema combines an impeccable knowledge of arbitration law and legal cultures with passion and ethics”

– Who’s Who Legal, Arbitration Future Leaders, 2020

“Ema is a real star, combining sharp intellect with exceptional pragmatism and intuition. She will flourish from the start” – Gary Born (WilmerHale) in a comment for Global Arbitration Review, Dec 2020

“Ema is a formidable lawyer who has achieved a tremendous amount in her career”
– Cherie Blair QC (Omnia Strategy) in a comment for Global Arbitration Review, Dec. 2020

“Ema is a real trailblazer [...] she’ll attain success through her energy, sharp mind and hard work”
– Michael McIlwrath (Baker Hughes, a GE company) in a comment for Global Arbitration Review, Dec. 2020

“Ema is a true star – one of the best arbitration lawyers of her generation”
– Who’s Who Legal, Arbitration Future Leaders, 2020

“Ema is brilliant, insightful, and knowledgeable beyond her years”
– Who’s Who Legal, Arbitration Future Leaders, 2021

“She brought tremendous clarity to very complicated issues and showed deep understanding of client needs” – Who’s Who Legal, Arbitration Future Leaders, 2021

“Ema is an extremely bright and sharp mind, and definitely one of the stars of the new generation”
– Who’s Who Legal, Arbitration Future Leaders, 2022

“Ema is technically strong and ethically impeccable”
– Who’s Who Legal, Arbitration Future Leaders, 2022

“She is incredibly knowledgeable, experienced and innovative”
– Who’s Who Legal, Arbitration Future Leaders, 2022

“She is a role model for the new generation of arbitrators and one to watch”
– Who’s Who Legal, Arbitration Future Leaders 2022